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### **Agenda Item XIII—Historical Society Request to Create and Abolish Positions**

#### **Alternative 1**

Note: Sounds like its mostly a housecleaning move within the Society to convert a current unclassified position in the Office of Human resources to classified, while simultaneously converting a current classified position in the Division of Historic Preservation to unclassified. There is no money involved, and LFB doesn't raise any concerns with the switch.



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 24, 1998

**TO:** Members  
Joint Committee on Finance

**FROM:** Bob Lang, Director

**SUBJECT:** Historical Society: Section 13.10 Request to Create and Abolish Positions Related to Central Administration and Historic Preservation – Agenda Item XIII

### **REQUEST**

The Historical Society requests the creation of 1.0 classified position and the deletion of 1.0 unclassified position, under 20.245(4)(a), to reflect the elimination of the unclassified status of the head of the Office of Human Resources. In addition, the Society requests the deletion of 1.0 classified position and the creation of 1.0 unclassified position, under 20.245(3)(a), to reflect the creation of the unclassified administrator position of the Division of Historic Preservation.

### **ANALYSIS**

The net effect of this request is to transfer an unclassified position from the former Division of Management Support Services to the Division of Historic Preservation and transfer a classified position from the historic preservation program to the Office of Human Resources, created in July, 1997. The Society has indicated that there is no need to move expenditure authority associated with these proposed position changes.

Society staff indicate that the proposed realignment of positions would represent a more efficient and effective means of aligning the types of positions heading the Division of Historic Preservation and the Office of Human Resources. The Society believes that the division administrator position has important policy-making and regulatory responsibilities and accountability would be increased with an unclassified position. In addition, Society staff indicate that a classified position would typically supervise the functions currently located within the Office

of Human Resources. Prior to July, 1997, the Office of Human Resources was a program within the Division of Management Support Services, headed by an unclassified division administrator.

The existing classified administrator position of the Division of Historic Preservation is vacant. The Society intends to fill this position in the Fall of 1998. Currently, the funding budgeted for the position includes \$67,200 for salary and \$25,300 for fringe benefits, for a total of \$92,500. The existing unclassified Office of Human Resources position is filled with a current salary obligation of \$66,800 and fringe benefits of \$25,100, for a total of \$91,900. Because these total amounts differ by only \$600 and the Society has neither filled the current division administrator vacancy nor completed the process of reclassifying the current head of the Office of Human Resources position, insufficient detail exists at this time to justify the transfer of monies between appropriations. If the Committee approves this request, the funding amounts could be properly aligned as part of the Society's 1999-2001 standard budget adjustments.

## ALTERNATIVES

1. Approve the Historical Society's request for the creation of 1.0 classified position and the deletion of 1.0 unclassified position, under 20.245(4)(a), to reflect the elimination of the unclassified status of the current head of the Office of Human Resources. In addition, the Society requests the deletion of 1.0 classified position and the creation of 1.0 unclassified position, under 20.245(3)(a), to reflect the creation of the unclassified administrator position of the Division of Historic Preservation.

2. Deny the request.

Prepared by: Bob Soldner

MO# Act 1

WEEDEN	<input checked="" type="radio"/>	N	A
FARROW	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
SCHULTZ	<input checked="" type="radio"/>	N	A
ROSENZWEIG	<input checked="" type="radio"/>	N	A
BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 15 NO 0 ABS 1

## **Agenda Item XIV--DWD Transfer of Funds to DVR for Additional Client Services**

### **Alternative 3**

Note: DWD is looking to move \$338,500 from the KIDS money we held in reserve for them from the last 13.10 meeting to their base level funding for client services. Adding the funds to the base is something that should be more carefully considered during the budget process. Therefore, you should definitely not support Alternative 1.

LFB agrees that the transfer from the KIDS appropriation is an appropriate use of these funds. There is a bigger problem though. Since DWD made the request a couple of weeks ago, they discovered that they miscalculated the amount of State GPR match they actually had available. In order to capture all of the federal money available, they really need more GPR than they originally requested. However, since the federal fiscal year overlaps the state fiscal year, they can wait until our next budget to get the additional funds needed to capture all federal FY 99 funds.

Alternative 3 provides them with \$392,500 as a one-time supplement and will allow them to capture all of the federal FY 98 funds available. They've got time to come back during the budget process and get the additional federal FY 99 funding they're looking for now.



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 24, 1998

**TO:** Members  
Joint Committee on Finance

**FROM:** Bob Lang, Director

**SUBJECT:** Workforce Development: Section 13.10 request to Transfer Funding to the Division of Vocational Rehabilitation Client Services Appropriation – Agenda Item XIV

The Department of Workforce Development (DWD) requests the transfer of \$338,500 GPR from the reserve in the Joint Committee on Finance's GPR appropriation [20.865(4)(a)] and \$83,600 GPR from the Department's Division of Vocational Rehabilitation (DVR) general program operations appropriation [20.445(5)(a)] to the Division's purchased services for clients appropriation [20.445(5)(bm)] in 1998-99.

### **BACKGROUND**

Under current law, DVR is required to advise and assist any disabled individual who applies to DVR for vocational rehabilitation services. Rehabilitation services provided by Division staff include individual assessments and evaluations, developing individualized rehabilitation programs, obtaining physical and psychiatric treatment, and securing and supervising other services, such as vocational training, that are part of an individual's vocational rehabilitation program. The individual rehabilitation programs are designed to assist the person to become capable to compete in the labor market, practice a profession, be self-employed, raise a family and make a home, and participate in sheltered employment or other gainful work.

Under Title I-B of the federal Vocational Rehabilitation Act, state funding of 21.3% is required as a match to federal funding of 78.7% for vocational rehabilitation services which move a disabled person toward employment.

## ANALYSIS

Disabled individuals apply for services at one of the 21 DVR field offices and staff counselors arrange medical, psychological and vocational evaluations to determine eligibility and for subsequent rehabilitation services for those deemed eligible. The field staff develop individual rehabilitation plans, provide guidance and counseling, and in some cases, job placement services. Other services that are provided can include medical treatment, transportation, training and education at technical schools, and occupational licenses, tools, equipment and supplies. DVR counselors purchase required services and materials for individual clients from local vendors.

DVR also provides for certain rehabilitation services that are needed for individual rehabilitation plans through contracts with other governmental agencies. Counselors develop plans for services for individual clients and the plans are reviewed to determine client needs. In certain cases, DVR contracts with governmental units to provide ongoing, new or expanded services based on these client needs. For example, DVR could contract for interpreter or job training services offered by a technical college. The governmental units can contract with private, nonprofit organizations to provide these services. Typically the DVR client is given a purchase order for the services and the agency is reimbursed for services provided.

The primary source of funds for DVR rehabilitation services is Federal Title I-B funds. Each year the federal government allocates a certain amount of these funds to each state. A match of 21.3% state funds to 78.7% federal funds is required to receive federal monies. A state must provide the required amount of matching funds or it will not receive its total federal allotment for that year. This funding is used to provide services to disabled individuals and to cover related administrative and operational expenses. The total amount of Title I-B funds allocated to Wisconsin is \$45,834,500 for federal fiscal year 1998 and \$46,934,750 for federal fiscal year 1999.

State matching funds are provided through DVR program revenue and GPR appropriations and third-party contracts. DVR funding of \$10,390,200 GPR and \$376,500 PR in state fiscal year 1997-98 and \$10,330,400 GPR and \$380,300 PR in state fiscal year 1998-99 was appropriated to match federal Title I-B funds.

Third-party contracts generally involve an agreement between DVR and another governmental agency. The governmental agency typically agrees to provide a rehabilitation service and the 21.3% in matching funds required to capture the federal funds. As a result, the services that a vocational rehabilitation counselor might otherwise purchase for a client with state GPR funds would be provided through a contract with the third-party agency.

Historically, DVR has used third-party contracts to provide a portion of the state match used to capture federal vocational rehabilitation funds. Often, the third-party governmental agencies can provide general, new or expanded services to DVR clients. However, in recent years, DVR has increased its use of third-party contracts as a source of state matching dollars. The percentage of total client service funding provided through third-party contracts will increase from 2.3% in

federal fiscal year 1992 to an estimated 24.1% in federal fiscal year 1999. A significant factor in the increased reliance on third-party dollars is the reduction of GPR matching funds. In both the 1995-97 and 1997-99 biennial budgets, annual base level GPR funding for client services was reduced by \$500,000. In both cases, DVR increased the amount of third-party matching funds to offset the loss of GPR. As a result, DVR relies on obtaining a certain amount of third-party matching dollars to capture the total amount of federal rehabilitation funds that are allocated to Wisconsin.

The increasing use of third-party matching funds has proven to be controversial. The GPR matching funds that are appropriated to DVR for client services are typically distributed to vocational rehabilitation counselors in the Division's district offices. The counselors use this money to purchase services and materials for individual clients. The decrease in base level GPR funding reduced the amount of funds available for individual counselor budgets. Instead, matching funds from third party contracts was substituted. The provision of some services through contracts with governmental agencies rather than individual purchases can be workable. However, a number of advocates and officials believe there are serious problems with the current situation.

A primary criticism of the use of third-party contracts is that the services that are purchased through the contracts do not always match the needs of individual clients. Also, many of the contracted services are not directed at severely disabled individuals. For example, a contract for interpreter services will not benefit people with orthopedic impairments. In some cases, the services may match individual needs but be provided at a location some distance from the client. In these instances, the transportation costs can further reduce counselor budgets. On the other hand, counselors can often avoid these problems by purchasing individual services and materials with the GPR funding. Many also believe that the GPR reduction caused a temporary shortfall of funding for individual client services earlier this year and led to the temporary denial or delay of services to disabled persons.

Conversely, some have criticized DVR for not fully exploring all possible methods for capturing third-party funding that would match client needs. Federal regulations allow the use of matching funds from cooperative agreements, establishment grants and contributions. DVR has primarily relied on cooperative agreements for third party matching funds. It could be argued that the Division should attempt to obtain matching funds through establishment grants and contributions. However, the Division has entered into a memorandum of agreement with Rehabilitation for Wisconsin to provide matching funds for establishment grants. DVR also attempted to establish an agreement for contributions with Badger Association of the Blind but the federal Rehabilitation Services Administration found that the agreement did not comply with federal regulations.

DWD is requesting the transfer of GPR funding to DVR's client services appropriation. The Department indicates that the current appropriated amount of state GPR and PR funding and expected third party matching funds will not be sufficient to capture the total amount of federal funding allocated to Wisconsin for federal fiscal years 1998 and 1999. The Department does not expect to be able to generate the amount third part matching funds that would be necessary given

the level of GPR and PR funding. In addition, a provision included in the 1997-99 budget gives DVR specific authority to request GPR funding if third-party matching funds are not available to offset the reduction in GPR matching funds. DWD has requested transfer of \$338,500 GPR from the Committee's GPR appropriation and \$83,600 GPR from the DVR's state operations appropriation.

The \$338,500 GPR in the Committee's appropriation was part of a larger amount of 1997-98 funding that was placed in the appropriation in 1997 Wisconsin ACT 27 (the 1997-99 budget) to fund the KIDS computer system. That amount was left in the appropriation after the Committee voted to transfer the remaining balance of KIDS funding at the December 1997, s. 13.101 meeting. The Committee voted to maintain the \$338,500 as a reserve at the June 1998, s.13.101 meeting. DWD now indicates that it does not anticipate using the funding for the KIDS system.

The \$83,600 GPR in DVR's general program operations appropriation is funding that was appropriated to cover the costs of transmitting financial transactions to the state computerized accounting system (WISMART). The method of transmitting the information has changed and the related costs have decreased. As a result, that funding is not needed to pay transmission charges.

In its request, DWD indicates that the total of \$422,100 in GPR funding that would be transferred should be sufficient to provide a match for the state's entire federal allotment of vocational rehabilitation funds for federal fiscal years 1998 and 1999. In addition, the funding would increase DVR's GPR base level funding for client services to increase the amount of GPR matching funds for future years. Since the Department submitted its request, the expected amount of GPR and PR matching funds has changed. As a result, the additional amount of GPR funding that would be required in 1998-99 to provide a sufficient match for federal funds has increased to \$669,800.

The table below shows the Federal allotments and the related matching funds for federal fiscal years 1998 and 1999. The table shows state GPR and PR matching funds and the expected third party matching dollars. Note that the state GPR and PR match are state fiscal year amounts while all other amounts in the table are for federal fiscal years. Also, fiscal year 1998-99 GPR and PR amounts include the expected pay plan and rent supplements. As the table shows, the client services appropriation would need \$669,800 GPR in additional funding in 1998-99 to have sufficient matching funds to capture the entire federal allotments for 1998 and 1999.



**Federal Vocational Rehabilitation Allotment  
and State Matching Funds\***

<u>Fiscal Year</u>	<u>Federal Allotment</u>	<u>Total Required Match</u>	<u>State GPR and PR Matching Funds</u>	<u>Third Party Matching Funds</u>	<u>Additional Required Matching Funds</u>
1998	\$45,834,500	\$12,405,000	\$10,766,700	\$1,245,800	\$392,500
1999	46,934,750	12,702,800	10,809,100	1,616,400	<u>277,300</u>
Total Additional Required Funding					\$669,800

\*These are federal fiscal year amounts except for state GPR and PR matching funds which are state fiscal year amounts.

As noted, the total amount of additional matching funds required receive to all federal Title I-B funds for 1998 and 1999 is \$669,800 rather than the requested \$422,100. In addition, \$83,600 of the \$422,100 that would be transferred to the client services appropriation would come from the Division's general program operations appropriation which is also used to provide matching funds. Although this funding transfer would increase case services funding, it would not capture additional federal funds. As a result, approval of the Department's request would provide DVR with an additional \$338,500 GPR to offset an expected \$669,800 shortfall in available matching funds.

The table shows that of the total amount of \$669,800 in additional matching funds that are required, \$392,500 is necessary to obtain the full 1998 federal allotment and \$277,300 is required to obtain the 1999 federal allotment. If the Department's request is approved, the \$338,500 GPR that would be transferred from the Committee's GPR appropriation would be used to provide a match for the 1998 federal allotment. DVR would still need \$54,000 to capture the entire 1998 federal allotment and \$277,300 to capture the 1999 allotment. This latter amount indicates that DWD would project a permanent shortfall of matching funds of this magnitude. The actual future shortfalls would depend upon the federal allotment, the amount of third party matching funds and base level GPR and PR matching funds in future years.

DWD staff indicate that the Department will obtain the additional \$54,000 in matching funding for the 1998 federal allotment from state matching funds that would otherwise be used to match the 1999 federal allotment. However, this means that an additional \$54,000 in matching funds or a total of \$331,300 would be required to fully match the state's 1999 allotment of federal vocational rehabilitation funds. The total includes the \$277,300 additional funds needed to match the 1999 allotment plus the \$54,000 that would be shifted to match the 1998 federal allotment. Because federal fiscal year 1999 overlaps the first quarter of state fiscal year 1999-2000, state GPR funding for 1999-2000 year could be used to make up the shortfall in matching funds for the 1999 federal allotment. DWD staff estimate that if the \$338,500 GPR transferred from the Committee's appropriation is included as base level funding, DVR will eventually have sufficient matching funds (including third party matches) to stop using current state fiscal year monies to match prior year federal allotments.

Under the provisions of s. 13.101(3), the Committee is authorized to provide supplemental funding in cases where an emergency exists and where no funds are available. DWD has requested a supplement that would be used to capture federal funds that would otherwise probably be lost on October 1. However, the Department has requested that the supplement be included as base level funding which would carry over into future years. Adjusting the Department's permanent funding level could be given a more comprehensive review during budget deliberations. As an alternative, the Committee could approve the transfer of the \$338,500 from its GPR appropriation as a one-time transfer of funds. This would allow DVR to capture most of the 1998 federal allocation of vocational rehabilitation funds. A second alternative would be to provide DVR with a \$392,500 GPR supplement. This would be the entire amount of additional funding that would be necessary to capture all of the 1998 federal allotment. Changes to the Division's base level appropriations could be considered during the 1999-2000 budget process. In addition, during the current state fiscal year the DVR could pursue other avenues to obtain third party matching, such as obtaining matching funds through establishment grants or contributions.

## ALTERNATIVES

1. Approve the Department's request to transfer \$338,500 GPR in 1998-99 from the Committee's GPR appropriation [20.865(4)(a)] and \$83,600 GPR in 1998-99 from DVR's state operations appropriation [20.445(5)(a)] to DVR's client services appropriation [20.445(5)(bm)].

2. Modify the Department's request to provide a one-time supplement of \$338,500 GPR in 1998-99 from the Committee's GPR appropriation [20.865(4)(a)] to DVR's client services appropriation [20.445(5)(bm)].

3. Modify the Department's request to provide a one-time supplement of \$392,500 GPR in 1998-99 from the Committee's GPR appropriation [20.865(4)(a)] to DVR's client services appropriation [20.445(5)(bm)].

4. Deny the request.

Prepared by: Ron Shanovich

MO# Alt 1

WEEDEN	(Y)	N	A
FARROW	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
SCHULTZ	(Y)	N	A
ROSENZWEIG	(Y)	N	A
BURKE	(Y)	(N)	A
DECKER	(Y)	N	A
GARD	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
PORTER	(Y)	N	(A)
KAUFERT	(Y)	N	A
LINTON <del>HUGER</del>	(Y)	N	A
COGGS	(Y)	(N)	A

# FAX

Date 09/24/98

Number of pages including cover sheet 3

TO: Senator Brian Burke

Phone 266-8535

Fax Phone 267-0274

FROM: DVR

State of Wisconsin - DWD

2917 International Lane,  
Suite 300

Madison, WI 53707-7852

Phone 608-243-5603

Fax Phone 608-243-5680

CC:

REMARKS: ☐ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

I want to share this information that the DWD sent to the Wisconsin Child Support Enforcement Association on the use of KIDS funding for DVR. I hope it is helpful since it addresses concerns similar to the ones you raised during our briefing on the DVR 13.10 request. If you have any questions, please feel free to call me at 243-5603.

Judy R. Norman-Nunnery  
Administrator  
DVR

Tommy G. Thompson  
Governor

Linda Stawert  
Secretary

Orlando J. Canto  
Division Administrator



State of Wisconsin

## Department of Workforce Development

ADMINISTRATIVE SERVICES  
201 East Washington Avenue  
P.O. Box 7948  
Madison, WI 53707-7948  
<http://www.dwd.state.wi.us/>

September 23, 1998

Elaine Richmond, President  
Wisconsin Child Support Enforcement Association  
Jefferson County Courthouse, Room 219  
320 South Main Street  
Jefferson, WI 53549

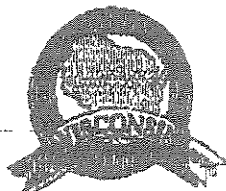
Dear Elaine:

As you know, the Department of Development has submitted a request to the Joint Committee on Finance to use \$338,000 GPR currently in the Committee's appropriation to fund a shortfall in matching funds in the Division of Vocational Rehabilitation. The \$338,000 GPR was originally intended to be used for the KIDS system operations in FY98. When the Department requested KIDS funding for FY99, it was not able to justify spending all of the GPR match that the Committee had placed in unallotted reserve from the previous year. The Department was granted all of the money it requested from the Committee in June, 1998, and KIDS is fully funded for FY99. As a result, the Committee is still holding the unreleased \$338,000.

The first question that arises vis-a-vis this money is, why wasn't it spent in FY98, i.e. before the end of June, 1998? There are a variety of reasons for this. First, the Bureau had budgeted for FY98 under the assumption that the PRWORA legislation would be passed, and implementation activities could begin. As you know, that bill was not signed into law until May 1, 1998. This was too late to spend any FY98 funds on PRWORA implementation. In addition in the fall of 1997, the Bureau had entered into an agreement with IBM Global under which IBM would increase its staff to 40. Because of marketplace factors, it was more difficult than had been anticipated for IBM Global to hire and train qualified technology staff. As a result, IBM Global was not able to bring its staff up to 40 until this summer, so those contracting costs were never realized.

Also, in the Spring of 1998, the Department was notified by the Division of Information Technology Services in the Department of Administration, that the mainframe operating rates which affect KIDS costs were lower than had been anticipated. This enabled the Department to realize additional savings in FY98. All of these factors combined to prevent the Department from requesting the \$338,000 GPR funding for either FY98 or FY99.

The second question that arises is, why can't the Department of Workforce Development ask for the money now for KIDS and use it to fund requested system changes? The response is that even if the money were released now, it could not be spent on KIDS during this fiscal year. The Department already has a high level of funding budgeted for FY98 and cannot use more funds. Even fully staffed, IBM Global is only able to maintain a certain level of system



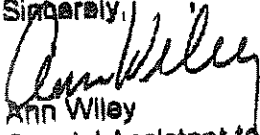
ADM-S120-E (R, 07/97)

File Ref:

change work because of the interrelated nature of many of the changes, so the release of these funds to the Bureau would not result in accelerated system work. The Department has also been working closely with DOA to put system efficiencies into effect that will further reduce mainframe operating costs.

In summary, before approving this request, Secretary Stewart determined that the Department can only justify using these funds for a purpose other than KIDS. If the DVR expenditure request is denied by the Joint Finance Committee, the funds will lapse at the end of FY99. Therefore, we hope that the WCSEA will support the release of these funds for another program need within the Department of Development.

Sincerely,



Ann Wiley

Special Assistant to the Secretary

# WCSEA

## Wisconsin Child Support Enforcement Association

320 S. Main Street • Room 219

Jefferson, WI 53549

920-674-7377

September 24, 1998

To: Sen. Timothy Weeden, Co-Chr., Rep. John Gard, Co-Chr., and Senators Brian Burke, Robert Cowles, Russell Decker, Margaret Farrow, Mary Panzer, Peggy Rosenzweig, Dale Schultz, and Representatives Sheryl Albers, Spencer G. Coggs, Sheila Marsdorf, Gregory Huber, Dean Kaufert, Thomas Ourada, Cloyd Porter.

Re: Transfer of \$338,500 GPR in 1998-99 from the Committee's GPR appropriation (20.865(4) (a)) to DVR's client service appropriation (20.445(5) (bm)).

Inasmuch as, the Committee voted to maintain \$338,500 as a reserve of the funds for the KIDS computer system at the June, 1998, s.13.101 meeting, and,

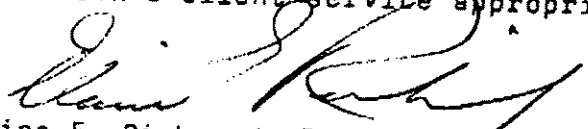
Inasmuch as, the recent KIDS system Audit by the Legislature identified numerous modifications and improvements necessary to the KIDS system to enhance program functioning and highlighted the need to address the priority of these modifications and improvements as they affect county programs rather than solely DWD concerns, and,

Inasmuch as, the counties have ongoing and special one-time activities related to the KIDS system and data clean up which will improve Wisconsin's overall performance and the counties are willing to immediately work in partnership with the Department of Workforce Development to dedicate funds from the \$338,500 reserve for these purposes, and,

Inasmuch as, there are critical functions of the KIDS program which are not now available for use by the counties and are not scheduled for design and programming by the vendor, IBM Global for longer than another year, and the counties believe that these critical functions could be performed by a subcontract vendor or other resource using the \$338,500 reserve funds, and,

Inasmuch as, there are counties with extraordinary needs to make their caseloads able to meet the standards required to enable them to receive their performance-based monies in 1999 which could be accomplished by use of the \$338,500 reserve funds,

The Officers and Board of Directors, along with the membership at large of the Wisconsin Child Support Enforcement Association strongly opposes the transfer of \$338,500 GPR in 1998-99 from the Committee's GPR appropriation (20.865(4)(a)) to DVR's client service appropriation (20.445(5) (bm)).

  
Elaine E. Richmond, President, WCSEA

**We strongly oppose the transfer of \$338, 500 from appropriations  
for the KIDS Fund to the DVR.**

[illegible]

**We strongly oppose the transfer of \$338, 500 from appropriations  
for the KIDS Fund to the DVR**

for the KIDS Fund to the DYK	
Name	County
Cece Woodward	Walworth
Yvonne V. V. V.	Walworth
Sinda Karan	Walworth
Ann Steiner	Eau Claire
Shirley Tibbitts	Eau Claire
Debbie Carlson	Eau Claire
Norelyn Carlson	Dane
Cindy Richmond	Dane
Eri Wilton	Dane
Bob Hale	Dane
Mark J. Blum	Dane
John M. Hays	Dane
Patricia E. Hays	Marathon
Neil E. Hallinan	Juneau
Sharon A. Duggan	Juneau
Carol A. Duggan	Juneau
Anita Duggan	Juneau
Tim Benzio	Juneau
Shirley Ann - Duggan	Juneau
Michael J. Duggan	Juneau
Angela Duggan	Juneau



**We strongly oppose the transfer of \$338, 500 from appropriations  
for the KIDS Fund to the DVR**

Name	County
Margaret Hunter	Dane
Lillian H. Hebard	Rock
Jan Gehrig	Rock
Maria Solberg	Stout
William M. Menden	Langlade
Marion J. Berg	Langlade
James M. Menden	Stout
Robert E. Menden	Chippewa
John M. Menden	Chippewa
Walter M. Menden	Waukegan
John M. Menden	Milwaukee
Rhonda Menden	Milwaukee
Tommy Menden	Milwaukee
John Menden	Milwaukee
Rene Menden	Milwaukee
Faye Menden	Milwaukee
James Menden	Milwaukee
John Menden	Milwaukee
William Menden	Waukegan
James M. Menden	Waukegan
Charles Menden	Waukegan
Walter Menden	Waukegan
Roslyn A. Menden	Waukegan
Debbie Menden	Waukegan County
Charles Menden	Waukegan Co.
Robert Menden	Waukegan Co.
Tori A. Menden	Waukegan Co.
John Menden	Waukegan

We strongly oppose the transfer of \$338, 500 from appropriations  
for the KIDS Fund to the DVR

Name	County
Mark Vanman	RACINE
Amey General Post	Racine
Diana Kovalinski	Racine
Amey Burlingame	Racine
Debra Haly	Polk
Jeffrey B. Kuehn	Polk
James W. Dillon	Dodge
Marci Werness	Vilas
Elaine Benson	Vilas
Nolan Burdwell Cronin	Vilas
Lisa Phulatt	Rock
Dyn Luchow	Rock
Patricia Von Bohren	Rock
Barry W. Wier	Rock
Robert W. Peterson	Brown
Carol Johnson	Brewer
Barry Sandberg	Brown
Theresa E. Oile	Washington
Vivian Lisa Gurschman	Racine
Ray M. Van Beek	Washington
Barbara Albrechtson	La Crosse
Ken M. Gouwenslager	La Crosse
Sharon Johnson	Whitehall Twp Co
Donna Kloss	Trempealeau
Nancy E. Eber	Fond du Lac
Kristen Eber	Fond du Lac

**We strongly oppose the transfer of \$338, 500 from appropriations  
for the KIDS Fund to the DVR**


Name	County
Martha Delaney	Jackson County
Mary Beth Carey	Jackson County
Kathie O'Neal	Jackson Co.
Nelson Lipper	Jackson Co.
Sarah Hogue	Jackson
[Signature]	Jackson Co.
Lisa Vande Weyer	Cumbe County
Virginia Bickel	Cumbe County
Gina Lorenz	Rain County



Wisconsin Counties Association

MEMORANDUM

TO: Honorable Members of the Joint Committee on Finance

FROM: Sarah Diedrick-Kasdorf, Legislative Associate 

DATE: September 24, 1998

SUBJECT: DWD Section 13.10 request to Transfer Funding to the Division of Vocational Rehabilitation Client Services Appropriation

The Wisconsin Counties Association (WCA) would like to express its concern for the funding source associated with the Section 13.10 request presented to you by the Department of Workforce Development which transfers \$338,500 GPR to the Division of Vocational Rehabilitation's purchased services for clients appropriation.

According to the Legislative Fiscal Bureau, "the \$338,500 GPR in the Committee's appropriation was part of a larger amount of the 1997-98 funding that was placed in the appropriation in 1997 Wisconsin ACT 27 (the 1997-99 budget) to fund the KIDS computer system...The Committee voted to maintain the \$338,500 as a reserve at the June 1998, s.13.101 meeting." Previous actions by the Joint Committee on Finance have transferred monies set aside for the KIDS computer system to fund other initiatives, such as adult corrections.

The audit released in December 1997 by the Legislative Audit Bureau identified several concerns with the development and operation of the KIDS computer system. WCA questions the rationale for transferring additional monies set aside for the KIDS computer system at a time when all county change order requests have not been met.

Additionally, the counties and state recently entered into a new child support contract that includes a new reimbursement system. There is concern by several counties regarding the availability of state funds to fully comply with the terms of the new contract. The \$338,500 remaining in the Committee's appropriation would go a long way in ensuring counties of the state's commitment to fully fund its obligations under the new contract.

We strongly recommend that the Joint Committee on Finance find an alternative revenue source to fund the Department's request.

Thank you for your consideration.

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100 River Place, Suite 101 ♦ Monona, Wisconsin 53716-4016  
608/224-5330 ♦ 800/922-1993 ♦ Fax: 608/224-5325

Mark M. Rogacki, Executive Director  
Darla M. Hium, Deputy Director

Mark D. O'Connell, Legislative Director  
Lynda L. Bradstreet, Administrative Director

## Agenda Item XV: DNR Stewardship Purchases

### Alternative 1 (approve both purchase requests)

Buying land in areas threatened by development costs a lot of money, there's just no way around it. But, we desperately need to be looking for places to preserve near fast-growing areas or we'll lose them forever. I think DNR does a good job of trying to get the best price for land, and we should stop trying to second-guess and micro-manage them with very limited information and involvement after the fact. Real estate deals and transactions are very complicated endeavors, and it's not wise for us to sit around this table today and second guess everything.

Also, it's my understanding that Schultz and Johnsrud are leading an effort on the Pabst Blue Ribbon Commission to Re-Authorize the Stewardship Fund that would prevent any Stewardship money from being spent in urban areas. Now, I'm not positive this is exactly what's going on - because we never get any notice of these Blue Ribbon meetings nor do we get minutes or updates from the meetings. But, if it's even remotely true, I am totally disgusted with this ultra-parochial baloney and think the Blue Ribbon Commission is a waste of time. The DNR doesn't go to great lengths to spend money in urban areas right now anyway, even though there are a lot of urban residents who pay taxes and deserve their fair share of the pie. Plus, people who live in the city are not the ones threatening our natural areas around the state.

(note: Schultz and Johnsrud will almost certainly mention a few abuses of the Stewardship Fund, like Risser stealing money for the Monona Terrace Center, etc.. But, these are examples of legislative pork, not DNR abuses of the Stewardship Fund. I'm pretty certain Schultz has tried to raid pots of money for projects in his district in the past - more and more hardship funding for failing sewage treatment plants in small communities comes to mind)

— Stewardship <sup>committed</sup> ~~assurances~~ —  
— <sup>WV Whitewater</sup> ~~perennial~~ —  
— <sup>sewage</sup> ~~treatment~~ plants —  
— <sup>WI Builders Assn</sup> —  
— Realtors —  
— how much land should state am-? —  
— impact on adjacent parcels —



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 24, 1998

**TO:** Members  
Joint Committee on Finance

**FROM:** Bob Lang, Director

**SUBJECT:** Natural Resources: Baileys Harbor Boreal Forest Natural Area (Door County) and Loew Lake-Kettle Moraine (Washington County) Stewardship Purchases – Agenda Item XV

### **REQUEST**

The Department of Natural Resources (DNR) requests approval to make the following purchases using funding from the Warren Knowles-Gaylord Nelson stewardship program:

- 94.94 acres in the Baileys Harbor Boreal Forest Natural Area in Door County from Edward and Marian Augustine for \$1,120,000 (\$251,000 in stewardship bonding and \$869,000 in federal funding); and,
- 80 acres in the Loew Lake Unit of the Kettle Moraine State Forest in Washington County from Mark and Susan Landt for \$485,000.

### **BACKGROUND**

#### **Warren Knowles-Gaylord Nelson Stewardship Program**

The stewardship program was created in 1989 Act 31 for the purpose of acquiring land to expand recreational opportunities and protect environmentally sensitive areas. The Legislature has authorized \$231 million in general obligation bonding for this purpose over a 10-year period, ending in fiscal year 1999-2000. The law allocates funding among twelve categories of land acquisition and development programs.

The stewardship program currently authorizes \$6.7 million annually for the Department's general land acquisition program. This bonding is used to purchase land for a number of Department functions, including fisheries management, forests, parks, wildlife management, wild rivers and resource areas. When a DNR project is planned, a map showing the desired borders for the whole project is drawn. Usually, not all of the land proposed for the project is for sale at that time. Under this program, DNR purchases property that is available within the mapped boundaries and then buys additional parcels as they come on the market to fill out the project borders.

In addition, \$1.5 million is authorized annually for the natural areas acquisition program, which existed prior to the stewardship initiative. Under this program, the Department purchases land that has educational or scientific value or is important to the state's genetic or biological diversity. These natural areas also frequently provide habitat for endangered or threatened species, and may include areas with significant geological or archaeological features.

It is also expected that DNR will allocate \$1.9 million annually of land acquisition funds from the federal government from such sources as the Land and Water Conservation Act, the Sport Fish Restoration Act and the Wildlife Restoration Act. Therefore, a total of \$250 million (\$25 million annually) is available under the stewardship program.

### **Baileys Harbor Purchase**

Baileys Harbor Boreal Forest Natural Area was officially established in 1995 to protect natural communities and populations of rare species along portions of the Lake Michigan shoreline in Door County. As of July 1, 1998, DNR controlled 257 acres within the project boundaries of the natural area, which is about 22 percent of the overall acreage goal of 1,180 acres. Over \$1.1 million has been expended on the acquisition of property in the unit.

The Augustine parcel is located two miles northeast of the village of Baileys Harbor in northeastern Door County. Wooded upland covers about 92 acres of the property, and a building site with a residence, garage and sheds covers the remaining 2.94 acres. Approximately 1,720 feet of frontage along Lake Michigan is also part of the property. The land is currently used as a personal residence and private 49-site campground. The proposed use, if purchased by the Department, would be for natural area protection, public recreation and natural history research and education. DNR currently owns land on the northeastern boundary of the property.

The property is currently zoned estate district, which is intended to provide for low density single family residential and planned residential developments on lots of at least five acres so as to provide some space for vegetation and open areas. The assessed value of the property for tax purposes in 1995 was \$908,500. A total of \$12,175 in property taxes was paid on the land that year.

Two private appraisals were done on the Augustine property. The first, done on December 21, 1995, identified the highest and best use of the property as residential. This appraisal utilized two separate approaches to value the property:

- the direct sales comparison approach, in which the subject property is compared to recent sales of similar properties, with adjustments made for differences which are commonly recognized in the real estate market. The comparable sales, when adjusted, provide some indication of a probable sales price of the subject property; and
- the developmental approach, in which the retail selling price of subdivided lots and other future developmental costs are estimated.

The direct sales comparison approach set the value of the property at \$1,056,000, while the developmental approach placed it at \$1,058,000. The appraisers ultimately estimated the value of the property to be \$1,050,000.

A second appraisal, done on December 28, 1995, identified the highest and best use of the property as either single family residential development or campground with excess land. For the purposed of valuing the property, the appraisal split it into three parts, valued as follows: \$688,000 for the water frontage, \$272,000 for the campground and \$160,000 for the backland. Thus, the combined value of the entire Augustine property was estimated to be \$1,120,000.

The Augustine purchase would be completed in two phases. In the first phase, DNR would pay \$500,000 (approximately \$300,000 in federal funds and \$200,000 in state funds) for about 77 acres that is within the Department's property boundary and an additional 1.25 acres (including approximately 200 feet of lake frontage) outside the boundary that includes the main residence. The \$500,000 will be paid out in three installments: \$433,000 upon closing; \$33,000 on or about January 31, 1999; and \$34,000 on or about January 31, 2000. In addition, 5 percent interest would be paid on the amounts after closing (an estimated \$5,050).

The Augustines would then rent the residence from the Department for \$500 per month for a minimum of three years after the closing date for the purchase. They would also continue to operate the campground during this time and gradually cease its operation as customers find other places to camp. The Nature Conservancy has offered to donate \$6,000 for future relocation costs. The Department intends to resell the residence after the Augustines have relocated. The December 21, 1995, appraisal placed the value of the residence on a two-acre parcel with 215 feet of lake frontage at \$220,000.

The second phase would begin upon the death of one of the Augustines. The remainder of the property outside the property boundary (approximately 17 acres, including 1,500 feet of lake frontage) would be purchased by the Department for \$620,000 (approximately \$569,000 in federal funds and \$51,000 in state funds). DNR intends to place some development-related deed restrictions on the remainder of the property outside the property boundary and resell it. The



Department indicates that the disposition of the remainder of the lakefront property would depend in part on the amount received for the existing residence and the level of restrictions placed on the property to preserve the lakefront in a relatively natural state. One to three parcels are being considered, with a single family home allowance on each. The appraisals would place the value if sold as two parcels at roughly \$700,000. DNR indicates that the agency may also explore the option of trading the land for other property within the Baileys Harbor Natural Area boundary.

Any funds accruing to the Department from the resale of any property or improvements would be deposited into an appropriation in the conservation fund, which can then be used for land acquisition, development and improvement related to the general conservation functions of the Department (such as fish and game refuges, forests, parks, trails, recreational areas, natural areas and habitat areas). All moneys received by DNR from rental of property owned by the Department are also deposited in the conservation fund and used for the maintenance of those properties.

The Augustine purchase was approved by the Natural Resources Board at its August, 1998, meeting on a vote of 7 to 0.

### **Loew Lake Purchase**

The Loew Lake Unit of the Kettle Moraine State Forest was officially established in 1996 to provide recreational opportunities in the southeastern portion of the state and to protect the natural and scenic value of the kettle moraine landscape. As of July 1, 1998, the Department controlled 1,086 acres within the project boundaries of the unit, which is about 51 percent of the overall acreage goal of 2,133 acres. Over \$2.2 million has been expended on the acquisition of property in the unit.

The Landt parcel is located on the western boundary of the Loew Lake Unit in the town of Erin in southwestern Washington County, approximately six miles southeast of Hartford. The property consists of 52 acres of woodland, a 25-acre tree nursery and a three-acre building site with an older residential two-story farmhouse and a detached three-car garage. The parcel is bordered on three sides by state-owned land. The present use of the property is rural residential, with portions of agricultural and lowland conservancy use. The proposed use of the land, if purchased by DNR, would be public recreation, forestry management and the Ice Age Trail.

The assessed value of the Landt property for tax purposes in 1997 was \$96,300. A total of \$2,253 in property taxes was paid on the land that year. Of the 80 acres, 76 are enrolled in the managed forest land program and thus exempt from local property taxes. The property is primarily zoned agricultural district, which is intended to hold agricultural land until rezoning is approved, with non-farm residential development being prohibited until rezoned as such. Portions of the land are also zoned floodland district (intended to preserve in open space and natural use land unsuited to development due to poor soil conditions and periodic flood inundation) and shoreland overlay (intended to provide protection of those lands with shoreland areas, including all land within 1,000 feet of a lake).

Two private appraisals using the direct sales comparison approach were done on the Landt property. The first appraisal, completed on May 5, 1998, identified single family residential and recreational development as the highest and best use, and estimated the overall value of the property to be \$496,000. A second appraisal, completed on May 18, 1998, identified low density rural residential development as the highest and best use, and estimated the value of the property to be \$440,000.

The house and approximately two acres of land will be leased back to its current owners for a period of up to three years for \$200 per month. At the end of the lease, DNR intends to sell the house for removal or salvage and return the site to a natural condition. The public would have access to the entire property except for the area being leased. The present owners would also retain the right to remove nursery stock for a three-year period.

The Landt purchase was approved by the Natural Resources Board at its August, 1998, meeting on a vote of 4 to 3.

### **Joint Finance Review**

Under s. 23.0915(4) of the statutes, the Joint Committee on Finance reviews all stewardship projects of more than \$250,000. DNR must notify the Co-chairpersons of the Committee in writing of the proposed encumbrance or expenditure. If the Co-chairpersons do not notify DNR within 14 working days after the Department's notification that a meeting has been scheduled to review the request, DNR may make the encumbrance or expenditure. If an objection to the project is made, then the Co-chairpersons must schedule a meeting to consider the request. DNR may make the proposed expenditure only with Committee approval.

DNR notification of these purchases was received by the Co-chairpersons on August 28, 1998. On September 17, 1998, the Co-chairpersons notified the Department that a meeting would be scheduled to review the request.

### **ANALYSIS**

The funding for the Augustine purchase in Baileys Harbor would come from two sources: (a) \$251,000 from the natural areas acquisition component of stewardship; and (b) \$869,000 coming from federal Coastal Wetlands Planning, Protection and Restoration Act grant funding. As of August 31, 1998, the natural areas acquisition category of stewardship had an unobligated balance of nearly \$3.0 million. The Department indicates that the federal funding from the Coastal Wetlands Act is reserved for purchases in the Baileys Harbor Boreal Forest Natural Area. If the federal funding is not used to purchase the Augustine property, it would be available for future purchases within the project boundaries.

The funding for the Landt purchase in Loew Lake would come from the general land acquisition component of stewardship. As of September 18, 1998, the general land acquisition category had an unobligated balance of approximately \$3.1 million. Any stewardship funding that is not approved for either the Landt or the Augustine purchase would remain in the overall balance of the stewardship program and would be available for future purchases from the respective categories.

Given that both purchases are within high-growth areas, the per acre cost of each (\$11,800 for the Augustine purchase, \$6,100 for the Landt purchase) could be considered high compared to potential purchases in most other areas of the state. It could be argued that the Department could better use stewardship funding to purchase larger areas of land in less-developed areas of the state. In this way, the buying power of stewardship in terms of acres acquired and landscape preserved could be better maximized. This would then maintain relatively larger areas of land under state control as development spreads into new areas of the state.

On the other hand, under administrative rule, DNR places principal emphasis on the acquisition of lands in the more heavily populated areas of the state and in places readily accessible to such areas. It could be argued that stewardship funding is best leveraged when used to purchase land that is under more immediate threat of being developed, rather than land in more slowly urbanizing areas that is more likely to remain in a less-developed state. In addition, the Committee has recently approved purchases in Dane, Waukesha and Sauk Counties, for example, that meet or exceed the per acre cost of the proposed purchases in Door and Washington Counties.

If, however, land that could be preserved is likely to otherwise be developed, it is often within the power of localities to zone the land in such a way as to maintain it in a relatively undeveloped state, if that is the preferred local option. Rather than spending limited state stewardship money to purchase land with a relatively high per acre cost, the state could instead rely more heavily on localities to preserve appropriate green space through zoning and other land use planning.

The proposed purchases would both be part of state properties. Thus, it could be argued that if the state wants the land preserved, the state should pay the market value in order to do so. Also, the power of zoning as a tool for land preservation is limited by the willingness of the locality to maintain land in an undeveloped state. Further, zoning ordinances must allow a reasonable use of the property by the owner to avoid a taking of private property for public use. If a parcel is not purchased by the state, a change in the zoning of that parcel at any time could result in the development of land that could otherwise have been preserved.

It could also be argued that by setting project boundaries and purchasing land within those boundaries, the state is adding value to certain parcels of land that they otherwise would not have. Regarding the Loew Lake purchase, for example, the landowners have a property that is bounded on three sides by state-owned land. The value of that privately-owned land is increased because it becomes more important to completing and achieving the goals of the project than it would be if

there was no state land around it. Thus, it could be argued that DNR is paying an increased price for these and similar parcels of land because of its previous purchases.

However, such conditions can be seen as an inevitable consequence of setting boundaries for project planning in the first place. As with any entity, public or private, that attempts to secure land held by many different owners, that entity might have to pay a higher price to the last landowners within a project boundary than they would if that owner were among the first to sell. Further, under administrative rule, consolidation and completion of existing projects is given higher priority than new acquisitions. Also, in addition to the presence of a state property, the general development pattern in the area, location and other features of the property contribute to its per acre value.

## ALTERNATIVES

1. Approve the DNR requests to purchase 94.94 acres in the Baileys Harbor Boreal Forest Natural Area in Door County from Edward and Marian Augustine for \$1,120,000 (\$251,000 in natural areas acquisition bonding and \$869,000 in federal funds) and 80 acres in the Loew Lake Unit of the Kettle Moraine State Forest in Washington County from Mark and Susan Landt for \$485,000 in general land acquisition bonding from the Warren Knowles-Gaylord Nelson stewardship program.

2. Approve the request to purchase the Baileys Harbor parcel from the Augustines.
3. Approve the request to purchase the Loew Lake parcel from the Landts.
4. Take no action. (Neither purchase would be approved.)

Prepared by: Russ Kava

MO#	<u>Att 1</u>			
1	WEEDEN	<input checked="" type="radio"/>	N	A
	FARROW	<input checked="" type="radio"/>	N	A
	COWLES	<input checked="" type="radio"/>	N	A
	PANZER	<input checked="" type="radio"/>	N	A
	SCHULTZ	<input checked="" type="radio"/>	N	A
	ROSENZWEIG	<input checked="" type="radio"/>	N	A
	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
2	GARD	<input checked="" type="radio"/>	N	A
	OURADA	<input checked="" type="radio"/>	N	A
	HARSDORF	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	PORTER	<input checked="" type="radio"/>	N	A
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	LINTON	<input checked="" type="radio"/>	N	A
	COGGS	<input checked="" type="radio"/>	N	A
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WISCONSIN CHAPTER  
633 West Main Street  
Madison, Wisconsin 53703

608/251-8140  
608/251-8535 FAX

September 24, 1998

Senator Brian Burke  
Joint Committee on Finance  
119 Martin Luther King Jr., Blvd. Room 516

Dear Senator Burke,

At your 13.10 meeting this afternoon, you will be considering approval of two important conservation properties using the state's Stewardship Fund. Although the Nature Conservancy encourages you to approve both of these important conservation purchases, we will limit our comments here to support the purchase of the Augustine property for the Bailey's Harbor Boreal Forest and Wetlands Natural Area. When the numbers are added up, the Augustine property is a low cost, very high value purchase for the citizens of our state.

The Nature Conservancy is a non-profit conservation group with nearly 25,000 members in Wisconsin. In the 40 years since the Wisconsin Chapter was founded, we have protected more than 50,000 acres throughout the state, including several projects on the Door County peninsula. We have been strong supporters of the Warren Knowles – Gaylord Nelson Stewardship Fund since it was created with the support of the Legislature and Governor in 1989. The purchase of the Augustine property (Spikehorn Campground) is a great example of using the Stewardship Fund to work with partners and protect Wisconsin's important natural resources.

The purchase of the Augustine property for the Bailey's Harbor State Natural Area is a conservation bargain that the state should embrace. Because of the \$869,000 grant from U.S. Fish and Wildlife service for this project and the future sale of part of this parcel that lies outside of the natural area boundary, this transaction will add an important property to an established natural area at virtually no cost to the state. This is a bargain that should not be refused! At your meeting, Department staff will clearly present more detailed information to the members on the breakdown of the costs for this purchase.

This transaction is a great example of how the Department is creatively using the Stewardship Fund to protect important resources while leveraging state dollars. In addition to the federal grant, the Nature Conservancy has also made a \$6000 donation to help defray the state costs associated with this purchase. We have worked with the Department on several other occasions to help protect other conservation properties in the Bailey's Harbor Boreal Forest and Wetlands

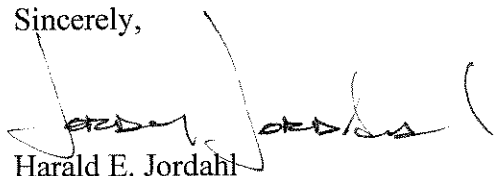
Natural Area, including our donation to the state of a lakefront property that was appraised at \$350,000. The Augustine purchase also will use a conservation easement/deed restriction to protect this high quality natural area and reduce the costs of the state owning this entire property. The DNR's creativity and demonstrated ability to stretch state Stewardship dollars to complete their mission of protecting the Bailey's Harbor Boreal Forest and Wetlands natural area should be supported and encouraged.

This is an important natural area that protects many plants, animals and natural communities that are rare in our state. This includes 48 species of rare plants, 15 of which are listed on Wisconsin's endangered or threatened list. The dwarf lake iris, a plant threatened with extinction, is found within the boundaries of the Boreal Forest and Wetlands natural area. The natural area harbors 5 species of rare birds, 5 species of rare dragonflies and protects rare natural communities ranging from cobble and bedrock beaches on the Lake Michigan shoreline to boreal forest dominated by white spruce and balsam fir and northern wet-mesic forest dominated by white cedar.

This natural area provides many other benefits to the Door County environment. Duck hunters at the natural area and at nearby Mud Lake State Wildlife Area will be pleased that this natural area protects the coastal wetlands and shorelines that are heavily used by migratory waterfowl and shorebirds. This natural area also protects significant spawning habitat for the Lake Michigan Whitefish population that is important to the remaining Lake Michigan commercial fishery.

The Nature Conservancy strongly supports the purchase of the Augustine property for the Bailey's Harbor Boreal Forest Natural Area. We encourage the Joint Finance Committee to approve this purchase. Please feel free to contact me if you have any additional questions about our position on this purchase, our projects in Door County or our work in other parts of the state.

Sincerely,

A handwritten signature in dark ink, appearing to read "Harald E. Jordahl", is written over a horizontal line.

Harald E. Jordahl

Director of Governmental Relations

The Nature Conservancy – Wisconsin Chapter

### Agenda Item R-3: DNR-Commerce MOU on PECFA

#### No Actions Recommended By Fiscal Bureau

(unless the co-chairs want to try and mess around with this)

This report was required by statute after the legislature gave Commerce authority over low and medium priority PECFA sites (i.e. to see how the two agencies were working together, etc.). Essentially, DNR still seems to take care of most of the sites (i.e. high priority) and the database the agencies were using wasn't getting the job done (I guess everyone has database problems). So, the data isn't real complete or accurate. Better data will be available in coming months, so no action should be taken today (we should do things full-assed, not half-assed).



## **Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 24, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: PECFA Program Report Submitted by the Departments of Administration, Commerce and Natural Resources – Agenda Item R-3

1997 Act 237 (the 1997-99 biennial budget adjustment act) directs the Secretaries of the Departments of Administration (DOA), Commerce and Natural Resources (DNR) to submit reports to the Joint Committee on Finance for consideration at the Committee's September, 1998, and March, 1999, s. 13.10 meetings that document the progress of DNR and Commerce towards meeting the requirements of the memorandum of understanding (MOU) related to administration of the petroleum environmental cleanup fund award (PECFA) program and high, medium and low priority petroleum contaminated sites. Act 237 requires that the report contain at least certain specified information. On September 9, 1998, the Committee received a report from the three agencies in response to the Act 237 directive.

This memorandum provides background about the MOU and summarizes how the report responds to the information required by Act 237. Act 237 does not require the Committee to take specific actions related to the reports. However, the Committee could choose to review the reports with the Secretaries of the three agencies or direct the agencies to provide additional information as necessary.

### **BACKGROUND**

DNR is responsible for administration of remedial action at high priority petroleum contaminated sites, sites that are contaminated with petroleum and non-petroleum hazardous substances and sites that are contaminated solely with hazardous substances other than petroleum. 1995 Act 27 (the 1995-97 biennial budget act) transferred from DNR to Commerce the administration of remedial action at medium and low priority petroleum contaminated sites based on the threat that the discharge poses to public health, safety and welfare and to the environment.



1995 Act 27 directed DNR and Commerce to enter into a memorandum of understanding (MOU) that establishes: (a) the respective functions of the two agencies in the administration of cleanup of petroleum storage tank discharges and the PECFA program; (b) procedures to ensure that cleanups at Commerce-administered sites are consistent with the hazardous substances spills law; and (c) procedures, standards and schedules for determining which sites are classified as high, medium or low priority. Both agencies were required to agree to the MOU. The two agencies were required to submit the MOU to the Secretary of the Department of Administration (DOA) for review and approval before the agreement took effect. The statutory requirements related to the division of authority for cleanup at petroleum-contaminated sites between Commerce and DNR and the development and implementation of the MOU are contained in sections 101.144(2) and (3m) of the statutes.

Commerce and DNR entered into an initial MOU on December 6, 1995. The Secretary of DOA sent a January 3, 1996, letter to the two Secretaries in which he accepted submittal of the MOU but did not specifically approve it. (DOA officials indicate that the letter represented approval of the MOU). DNR and Commerce revised the MOU effective May 8, 1998. The May, 1998, MOU had an approval line (which was not included in the 1995 MOU) which the Secretary of DOA signed on May 11, 1998. The Secretary of DOA transmitted the MOU to the Governor in a May 8, 1998, letter. (There was no similar transmittal letter to the Governor in 1995).

## **THE DOA, COMMERCE AND DNR REPORT**

1997 Act 237 directs that the report submitted to the Committee by DOA, Commerce and DNR include specific information. The following sections show the information required to be included in the report and summaries of the responses of the agencies to each topic.

**(a) The progress toward determining the classification of petroleum discharge sites as high, medium or low priority.**

The report states that DNR reviewed all sites with an unassigned priority and prepared a report on June 12, 1998. In late July, DNR discovered that the June report was based on outdated information. Therefore, at this time, the number of sites actually transferred to Commerce as a result of this review is not known. DNR will supply a new list after the Commerce and DNR databases are correlated. The priority ranking of sites will be updated as the databases are reconciled. The agencies implemented a pilot process in July, 1998, which directs consultants to send site investigation reports to the appropriate agency, instead of the prior practice of consultants sending the site investigation report to DNR and DNR determining the site priority.

**(b) The number of petroleum discharge sites under the jurisdiction of DNR and Commerce.**

The report identifies 10,916 petroleum tank sites that are included in the databases of both agencies. The agencies have matched the Commerce "occurrence" to the DNR "activity." DNR administers 80% (8,758) of the sites and Commerce administers the remaining 20% (2,158). Of the total, 55% (5,970) are open (active) sites. DNR administers 85% (5,082) of the open sites and Commerce administers the remaining 15% (888). Of the open sites, 63% (3,753 of 5,970) are high priority sites and 3,700 of the 3,753 high priority sites are administered by DNR.

In addition to the 10,916 sites that have been reconciled in the databases of both agencies, 5,571 sites are included in the DNR database but have not yet been matched to a site in the Commerce database. The report also indicates that the Commerce database includes 12,600 occurrences but only about 11,000 of them have been matched to sites in the DNR database, meaning 1,600 Commerce occurrences have not been reconciled with DNR data. The two agencies continue to reconcile this data. It is possible that the agencies will determine that some of the 5,571 sites that are only in the DNR database and some of the 1,600 occurrences that are only in the Commerce databases are the same sites. Further, many of the DNR sites may contain contaminants other than petroleum that would not be included in the Commerce database.

The report states that the data model used to reconcile site information between the two agencies was implemented in late August. The report indicates that reconciliation of the data will continue and will be more accurate in the December, 1998, agency report to the Governor. Further, many of the DNR sites may be non-PECFA eligible or contain non-petroleum based contaminants that wouldn't be included in the Commerce database.

**(c) The number of petroleum discharge sites closed by DNR and Commerce.**

The report states that 45% (4,946) of the 10,916 sites that have been reconciled in both agencies are closed. Of this total, 23% (1,134) are high priority sites. By contrast, 63% of the open sites are high priority. In addition to the reconciled sites, 62% (3,439) of the 5,571 sites that are included in the DNR database (but not the Commerce database) are closed sites.

**(d) The time that it takes to close petroleum discharge sites after the discharges are reported to the state.**

The DOA cover letter to the Committee indicates that over 75% of the sites closed under DNR jurisdiction and 70% of sites closed under Commerce jurisdiction were completed within four years. While the report text does not discuss this topic, it contains tables showing how long it took to close sites (Chapter 4, third and fourth unnumbered tables) and a 10 page list of cases closed by DNR during April through June, 1998. The report states that of the 4,946 closed sites that have been reconciled by both agencies, 51% (1,876) of the 3,676 closed sites under DNR jurisdiction were closed in less than two years, and 46% (582) of the 1,270 closed sites under Commerce

jurisdiction were closed in less than two years. Commerce has had jurisdiction over medium and low priority sites since July 1, 1996, so some of the 1,270 sites closed under Commerce jurisdiction since that date may have been active for several years before they were transferred from DNR to Commerce.

The report does not compare the length of time it takes to close high priority sites as compared to medium and low priority sites. In addition, it does not describe the length of time it has taken the two agencies to close sites during the two years that Commerce has had jurisdiction over medium and low priority as compared with the length of time it took DNR to close sites prior to the July 1, 1996, transfer of medium and low priority sites from DNR to Commerce.

**(e) The progress made by Commerce in using the authority under the PECFA statute in requiring the use of specified service providers in order to reduce costs of cleanups and in requiring owners of petroleum discharge sites to use a public bidding process in order to reduce the costs of cleanups.**

Since the emergency PECFA rule COMM 47, went into effect on April 21, 1998, Commerce has identified 29 sites that are candidates for bidding of the proposed remedial strategy to determine the lowest cost strategy. The original remedial action proposals for these sites totaled \$7,846,200. Commerce will compare bids to this amount to determine if savings can be achieved through the competitive bidding process.

Commerce has identified six potential remedial "bundles," each of which contains three to four properties that will be incorporated into one coordinated remedial effort in an effort to reduce the total site cleanup cost. The report indicates that while bundling is in the early stages of implementation, one bundle has resulted in savings of \$213,000 on excavation of contaminated soil, disposal and backfilling costs.

The report also indicates that another provision in COMM 47 may reduce costs. The rule would exempt sites where cleanup can be completed for \$80,000 or less from a number of bidding requirements and would allow these claimants to receive priority claim review. During approximately four months since the emergency rule went into effect, 31% (128) of 409 remedial alternatives received by Commerce for review have been requests for the \$80,000 or less capped cost cleanup. In comparison, in the approximately four month period before the emergency rule went into effect, 17% (65) of 390 remedial alternatives received by Commerce for review were expected to cost \$120,000 or less.

**(f) A summary of the definitions in the MOU of high, medium and low priority sites and the reasons for those definitions.**

The report includes the following definitions of high, medium and low priority sites as listed in the MOU.

- (1) High priority sites (the responsibility of DNR) include any site which meets one or more of the following criteria: (a) has confirmed groundwater contamination where any compound detected is equal to or greater than an established preventive action limit in administrative code NR 140; (b) a hazardous substance is present other than petroleum from a petroleum product storage tank system; and (c) there is contamination to an area of exceptional environmental value where the discharge would pose a greater than normal threat.
- (2) Medium priority sites (the responsibility of Commerce) include sites where: (a) any confirmed groundwater impacts are less than an established preventive action limit in NR 140; and (b) there is no evidence that the site is contaminated with a hazardous substance other than the petroleum product that was discharged from a petroleum product storage tank system.
- (3) Low priority sites (the responsibility of Commerce) include sites where there is only petroleum contamination in the soils, no threat to groundwater and no evidence that the site is contaminated by a hazardous substance other than the petroleum product that was discharged from the petroleum storage tank system.

**(g) If more than 30% of the total known active petroleum discharge sites are classified as high priority, a description of the causes for that number of high priority sites.**

The report states that the percent of active sites that are high priority can not yet be precisely calculated until the Commerce and DNR databases have been fully reconciled. However, the report states that 60% to 70% of all active sites, including unknown priority sites, are classified as high priority. When only active sites that have been classified as high, medium or low priority are considered, 70% to 80% are classified as high priority. While 63% (3,753) of the 5,970 open sites that have been reconciled by both agencies are high priority, the percentage increases to 83% (4,984) when unknown priority sites are included. Of the 5,571 sites that are included in the DNR but not the Commerce database, 46% of the 2,132 open sites are high priority, but when unknown sites are also included, the percentage increases to 86% of open sites.

The report states that roughly 80% of the high priority sites are classified as high priority solely because of groundwater contamination that exceeds one or more groundwater standard, 5% solely because of contamination by a hazardous substance in addition to the petroleum product that was discharged from the petroleum storage tank system. Approximately 15% of the high priority sites have both groundwater contamination and contamination from non-petroleum hazardous substances and less than 1% are classified as high priority due to contamination to an area of exceptional environmental value.

To date, high priority rankings have primarily been based on: (a) numerical exceedances of groundwater contaminant standards; and (b) the presence of multiple types of contaminants at the site. Some have raised concerns relating to whether: (a) a system that ranks perhaps 60% to 80% of

sites as "high" priority is reasonable; and (b) a different definition of the actual threat to public health, safety or welfare and the environment could reduce the percentage of high priority sites.

## **SUMMARY**

The report provides information that generally responds to the requirements of 1997 Act 237. The agencies have made progress in linking the site databases of each agency in order to reconcile the number and classification of sites. It can be expected that the agencies' December, 1998, report to the Governor and the March, 1999, report to the Committee will provide a clearer understanding of how many sites are administered and closed by each agency, classification of sites, effectiveness of the pilot process for site ranking by consultants and potential methods of closing sites more quickly where groundwater contamination exceeds preventative action limits but is less than enforcement standards.

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